

1 \$48 million number?

2 MR. GENO: \$42, Your Honor. Yes.
3 It's their -- they commissioned an appraisal,
4 and the appraiser prepared that report.

5 JUDGE SIPPEL: And they have not
6 given you a copy of the report.

7 MR. GENO: They have not. But we
8 will request it again. If we don't get it,
9 we'll ask for the bankruptcy court to subpoena
10 that document.

11 JUDGE SIPPEL: I'll subpoena it.
12 You want a subpoena for it?

13 MS. KANE: Sure.

14 JUDGE SIPPEL: Make the application.
15 So you've got to get an address and the name of
16 an officer there.

17 MS. KANE: We'll be happy to do
18 that, Your Honor.

19 JUDGE SIPPEL: Maybe you'll get it
20 first, you know, you'll be ahead of the
21 bankruptcy court. Is that okay, Mr. McFadden?

22 MR. MCFADDEN: That's fine, Your

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1 Honor. I'd also just like to be clear, though,
2 that what we're talking about receiving on
3 November 4th would also include -- would that
4 also include the contracts underlying the
5 assignment of license applications that the
6 applicants are party to?

7 JUDGE SIPPEL: I'm understanding
8 that to be the case.

9 MR. KELLER: Yes, Your Honor.

10 JUDGE SIPPEL: He's nodding yes.

11 MR. KELLER: Subject to the
12 protective order.

13 MR. MCFADDEN: Would that also
14 include all 16 --

15 JUDGE SIPPEL: Subject -- pardon me.
16 One at a time, one at a time. He said, yes,
17 that's correct, subject to the protective
18 order. That's a given. Go ahead, sir.

19 MR. MCFADDEN: And would that also
20 include all 16 contracts that are listed in
21 Maritime's bankruptcy petition, to the extent
22 there's not perfect overlap there?

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1 MR. KELLER: I'll have to know what
2 those are. I mean, I can't answer that without
3 seeing what the list, assuming the 16 are among
4 those contracts here, yes.

5 MR. MCFADDEN: Well, Your Honor --

6 MR. KELLER: What I'm talking about
7 is eight contracts for sales of license. Yes.

8 MS. GOING: But the bankruptcy
9 petition lists 16 contracts for the sales of
10 licenses.

11 MR. KELLER: Yes. Contracts for
12 sales of licenses --

13 (Simultaneous speaking.)

14 MR. KELLER: Something was said
15 about spectrum leases too. I don't know if
16 those will actually --

17 MR. GENO: I thought you mentioned
18 spectrum leases.

19 MS. GOING: Do you want me to read
20 them out loud?

21 MR. KELLER: No, no. That's all
22 right. I mean, contracts for sales of licenses

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1 would be included, yes. Actual executed
2 contracts.

3 MS. KANE: Well, we also think any
4 leases that they have provides a value for the
5 spectrum, as well.

6 JUDGE SIPPEL: Yes. We've got to
7 have the whole picture. I mean, that you have,
8 that you can give us. Now, obviously you can't
9 give us what you're going to have on November
10 21st. I'm not being unreasonable. But
11 whatever you have now, you can give us.

12 MR. KELLER: I'll have to get back
13 to you on the leases, because I don't know what
14 the whole story is with those.

15 MR. PLACHE: If the lease is
16 prepaid, it could be a detraction from the
17 value of the spectrum.

18 JUDGE SIPPEL: Could you identify
19 yourself, sir, please.

20 MR. PLACHE: I'm Matthew Plache.

21 JUDGE SIPPEL: Thanks, go ahead.

22 MR. PLACHE: On behalf of --

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1 JUDGE SIPPEL: Say what you were
2 saying.

3 MR. PLACHE: -- Dixie Electric.

4 JUDGE SIPPEL: Well, please, say
5 what you were saying. Repeat that.

6 MR. PLACHE: Well, if the lease was
7 pre-paid --

8 MR. KELLER: Let's just say I don't
9 know --

10 MR. PLACHE: -- it would reduce the
11 value of the spectrum.

12 MS. KANE: Understood, but, Your
13 Honor, we don't have -- the whole problem is
14 we're all working in the dark, here. We don't
15 have --

16 JUDGE SIPPEL: I understand, believe
17 me --

18 MS. KANE: -- to be able to
19 determine that. So I think at --

20 JUDGE SIPPEL: I understand.

21 MS. KANE: -- the very least, we
22 should be entitled to the documents to

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1 determine --

2 JUDGE SIPPEL: Well --

3 MS. KANE: -- that ourselves.

4 MR. PLACHE: But that's, in fact,
5 and I would comment that what's been filed is
6 wildly, wildly speculative. The 30 cents per
7 megahertz pop, and using that as a valuation,
8 we would say it's wildly speculative.

9 And especially, you know, I didn't
10 really have a dog in this fight, but if we
11 can't bifurcate this for Second Thursday
12 purposes, you know, I do have a dog in the
13 fight.

14 Because we want our contracts to go
15 through, and our, Dixie Electric wants to use
16 the spectrum to serve, basically, to serve the
17 public. They need the spectrum to build out
18 their network, to protect the citizens in
19 northern Louisiana.

20 But, you know, there are a lot of
21 issues with valuing that spectrum at the price
22 that you threw out, because a lot of the

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1 spectrum is in areas where there is a lot of
2 other spectrum available.

3 And in how many years, you know,
4 MCLM had a lot of trouble even getting the
5 contracts they got, so I would rather see the
6 actual contract that they can get now for all
7 of the spectrum, and we'll see that in what, in
8 a couple months? Within 45 days we might see
9 that, and that would be a better assessment of
10 the value of the spectrum, at least for the
11 Second Thursday. What they can actually sell
12 it for.

13 I mean, I know that my client would
14 not be here if they didn't already have a
15 network that can operate on this spectrum. The
16 only reason this spectrum is valuable to them
17 is because they have the equipment to use it.
18 They can build out the spectrum with the
19 equipment they already have.

20 And that meant a lot to buying the
21 spectrum. There are not a lot of networks
22 built on this spectrum. I don't even think Mr.

1 McFadden's client has built a lot on his
2 spectrum, and he owns a ton of it already, so -
3 -
4 and anyone who tries to buy the spectrum is
5 subjected to, what I would call, anti-
6 competitive strife petitions from Mr.
7 McFadden's client. And we had to file numerous
8 motions to strike before the Wireless Bureau,
9 because of the defamatory pleadings that his
10 client was filing.

11 So I'm a little uncomfortable with
12 him getting the contract to purchase, but if
13 it's not in your protective order, we can live
14 with that, so --

15 JUDGE SIPPEL: Well, I'll -- I'm not
16 expecting --

17 MR. PLACHE: Yes.

18 JUDGE SIPPEL: -- that he's going to
19 act like that when he's in this proceeding.

20 MR. PLACHE: Yes. I --

21 JUDGE SIPPEL: I have confidence in
22 the law, but I know some of --

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1 MR. PLACHE: Well, it's a protective
2 order, so I rely on that.

3 JUDGE SIPPEL: -- protect, that's
4 right. That's the bottom line. There's a
5 piece of paper that's signed and he has the --
6 it's an order. Yes, sir.

7 MR. KELLER: Let me add, I think he
8 makes more eloquently the point, or maybe makes
9 it clearer, the point that I was trying to say
10 about my problem with all this talk about
11 valuation.

12 You have a situation here, within a
13 matter of a few weeks or a couple months at the
14 most, we're going to have actual numbers.
15 We're going to have contracts to purchase the
16 spectrum for X amount of dollars. What does it
17 matter whether today there's a valuation that
18 says it's worth \$100 million or whether it says
19 it's worth \$2 million. What matters for Second
20 Thursday purposes is how much are you going to
21 get for it? What are you going to sell it for?

22 So I'm saying, we're that close to

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1 having actual numbers, so why are we wasting
2 all this time chasing speculative valuations of
3 the amount? What difference does it matter
4 what somebody, theoretically, thinks the
5 spectrum is worth? What ultimately matters is
6 what are the value of the contracts that we're
7 going to sell the spectrum for. And that's
8 something that is going to be known in fairly
9 short order.

10 MR. PLACHE: And, in fact, can I
11 make one more point?

12 JUDGE SIPPEL: Yes, sir.

13 MR. PLACHE: As soon as those
14 valuations go, we're going to get numerous
15 filings in this proceeding that my client's
16 going to have to deal with. I'm going to have
17 to spend time on it. And it's all going to be
18 based on speculative valuations, not the real
19 thing.

20 MS. KANE: Well, Your Honor --

21 MR. PLACHE: I'd rather just wait 45
22 days and get the real information.

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1 JUDGE SIPPEL: Oh, I see what --
2 okay.

3 MR. PLACHE: You know, as opposed to
4 having to, I'm going to have to read, you know,
5 I'm going to have to read, probably a volume
6 like this from Mr. McFadden's client, and I
7 don't know what Ms. Kane is going to file, but
8 --

9 MR. KELLER: Well, this --
10 (Simultaneous speaking.)

11 JUDGE SIPPEL: I understand that,
12 yes you --

13 MR. MCFADDEN: Right. That's
14 something --

15 JUDGE SIPPEL: Maybe we can agree to
16 designate an attorney's eyes only.

17 MR. PLACHE: I mean, every week I
18 get more filings and the stack is getting this
19 high.

20 JUDGE SIPPEL: Can we agree -- I'm
21 sorry --

22 (Simultaneous speaking.)

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1 JUDGE SIPPEL: Now wait a minute.

2 Everybody's talking at once. Now wait.

3 MS. KANE: Your Honor, you know,
4 we're talking about what is -- if you want to
5 talk about what the current value is of this
6 spectrum, there can't be any better reflection
7 of that than the contracts they've entered into
8 within the last year or two for this very same
9 spectrum, and any leases that are currently
10 active for this same spectrum.

11 And what's concerning us is Mr.
12 Keller's, you know, giving with one hand and
13 taking with the other, not wanting to give us
14 the leases for some reason, and we can't seem
15 to figure out why, when they seem to be just as
16 accurate a valuation as a license, and as the
17 spectrum.

18 JUDGE SIPPEL: Well, Mr. Keller's
19 been very candid about it. He says, I don't
20 know what they are.

21 MS. KANE: Well, that --

22 JUDGE SIPPEL: He's got to go back

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1 and find out what they are.

2 MS. KANE: That seems improbable to
3 us, Your Honor. You know, this is something
4 that we've asked for, we've asked for any
5 documents relating to the lease and the signing
6 of this spectrum since the beginning of July.

7 And although they didn't file until
8 August 1st, they should have, during that time
9 period, been doing basic discovery and
10 complying with basic discovery obligations,
11 which is going back to his client and figuring
12 out what information they had that was
13 responsive to those requests.

14 So we find it improbable that he
15 doesn't understand what those leases are, but
16 certainly, Mr. Geno does, because he identified
17 them on the bankruptcy pleadings.

18 JUDGE SIPPEL: Okay.

19 MS. KANE: So, you know, there's
20 somebody on Maritime's side who knows what
21 those leases are, and they've identified them
22 as assets to the bankruptcy court.

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1 JUDGE SIPPEL: All right.

2 MR. MCFADDEN: If I may --

3 MR. KELLER: Well, if you'll --

4 JUDGE SIPPEL: Well, wait a minute.

5 Let me, you guys, you just go ahead. Before

6 you reply, okay?

7 MR. KELLER: Okay.

8 JUDGE SIPPEL: Hold on --

9 MR. MCFADDEN: If I may, Your Honor,
10 we're acting like the -- to follow up on Ms.
11 Kane's point, we're acting like the value of
12 the contracts is something of a mystery. I
13 mean, there are lawyers in this room who know
14 what the value of the contracts is. They could
15 tell us. I mean, there's no reason for any
16 delay at all in producing that information.

17 The applicants are, in fact, here,
18 because they are seeking to vindicate their
19 assignment of license applications, so I'm
20 assuming that they're still interested in the
21 spectrum. So I don't understand what the
22 mystery is about what the value of those

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1 contracts is. And I think we should be able to
2 get that as soon as possible.

3 JUDGE SIPPEL: Well, what's your
4 response to that?

5 MS. KANE: We would absolutely agree
6 with that, Your Honor, but there are additional
7 documents that may not reference these --

8 JUDGE SIPPEL: The leases.

9 MS. KANE: -- these applicants.
10 There may be other --

11 JUDGE SIPPEL: The leases.

12 MS. KANE: -- leases, there may be,
13 it sounds like there are at least four or five
14 other parties who have applications or
15 contracts with Maritime that are identified in
16 the bankruptcy pleadings that aren't in this
17 room.

18 JUDGE SIPPEL: Well, I said that. I
19 said, we'd like -- I'm instructing everything
20 be produced. The only reason I'm hesitating on
21 these leases is because you don't know about
22 the leases.

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1 MR. KELLER: Well --

2 JUDGE SIPPEL: Mr. Geno does know
3 about the leases.

4 MR. GENO: I do, Your Honor.

5 JUDGE SIPPEL: Is there any problem?

6 MR. GENO: I don't know that they're
7 covered by the confidentiality order.

8 JUDGE SIPPEL: Really?

9 MS. KANE: Anything that would be
10 produced by Maritime in this hearing is covered
11 by the protective order in this case, which is
12 extremely extensive, and everybody in this room
13 negotiated it. It's got multiple layers of
14 protection, it's got attorneys' eyes only
15 protection, I can't imagine it cannot properly
16 protect the lessees in this situation. And
17 there should be no reason to withhold that
18 based on that information alone. We asked for
19 it in discovery, and if -- absent a bankruptcy
20 proceeding, we would have been able to obtain
21 that in discovery in this case.

22 JUDGE SIPPEL: Well --

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1 MR. GENO: If it's covered by the
2 protective order, Your Honor, I don't have any
3 problem with producing it.

4 MR. KELLER: I, it --

5 JUDGE SIPPEL: All right. Well, I'm
6 listening to you, Mr. Geno. Then you're going
7 to get it.

8 MS. KANE: That sounds good to us,
9 Your Honor.

10 JUDGE SIPPEL: Okay?

11 MS. KANE: And now --

12 JUDGE SIPPEL: Now, is the 4th of
13 November okay or you want me to push it up
14 earlier?

15 MS. KANE: Well, that'll be fine,
16 Your Honor. I believe that's next week.

17 JUDGE SIPPEL: I believe it is.

18 MS. KANE: That would be fine with
19 us, Your Honor.

20 JUDGE SIPPEL: Is that okay with
21 you, Mr. McFadden?

22 MR. MCFADDEN: That's fine, Your

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1 Honor.

2 JUDGE SIPPEL: Ma'am?

3 MS. GOING: Yes.

4 MS. KANE: And we would also, on
5 November 4th, get an identification of each of
6 the individual creditors and their
7 relationships with the alleged wrong-doers?

8 MR. KELLER: Correct.

9 JUDGE SIPPEL: Yes, you did promise
10 that on the record.

11 MR. KELLER: Correct.

12 MS. KANE: Well, then we would want
13 clarification what Mr. Keller intends to
14 provide to us in the middle of December as this
15 comprehensive Second Thursday analysis.

16 JUDGE SIPPEL: Well, I can tell you
17 it's not going to be in the middle of it, it's
18 going to be ten days from the 21st.

19 MS. KANE: Ten days from the 21st of
20 what, Your Honor?

21 JUDGE SIPPEL: Of November. That's
22 when they have their final push at the

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1 bankruptcy court. I'm characterizing it in
2 that, in terms of, basically, that's when they
3 will be in a position to prepare something for
4 you in ten days. Basically, it's going to be
5 the same thing they give to the court.

6 You're going to also get, in the
7 meantime, by the way, you're also going to get
8 copies of everything from here on out that they
9 file with the bankruptcy court.

10 MS. KANE: Now --

11 JUDGE SIPPEL: So you're going to
12 have the full deck before you know it.

13 MS. KANE: Well, we would appreciate
14 that, Your Honor. The other concern that we
15 have is that at every point in time in the
16 bankruptcy court, Maritime has filed an
17 extension of every deadline.

18 So we would like some sort of
19 commitment on the record today, that they are
20 going to comply with the re-organizational plan
21 deadline of January 29th, 2012, and that that
22 will not be moved for an extension. If we're

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1 going to agree to wait until that time period
2 to get a full comprehensive analysis.

3 JUDGE SIPPEL: Well, Mr. Geno has --
4 I mean, I'm going to take a lawyer's word. I
5 mean, he's represented that he has no
6 intentions now of asking for an extension. So
7 they intend to meet that date. I don't have
8 any reason to question that, right now.

9 MS. KANE: Okay, Your Honor.

10 JUDGE SIPPEL: But I think I can put
11 together a pretty comprehensive summation of
12 this, but I'm going to rely on you to make the
13 specifics. You say you don't want to do it,
14 but somehow -- I don't care how you do it.

15 MR. KELLER: We're going to provide
16 the contracts and the identification of the
17 creditors and their relationship to the -- but
18 my hesitation on the leases is just knowing how
19 they fit it in. A lot of the leases are part
20 and parcel of the sale contract that is
21 pending.

22 JUDGE SIPPEL: She'll figure that

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1 out.

2 MR. KELLER: But, yes,

3 JUDGE SIPPEL: But again --

4 MR. KELLER: But the contracts, the
5 actual signed contracts and the idea of the
6 creditors and the relationship to principals,
7 yes. November 4. That will be provided.

8 JUDGE SIPPEL: And also --

9 MR. KELLER: I'm sure --

10 JUDGE SIPPEL: But don't forget the
11 leases, now.

12 MR. KELLER: No, I said, the
13 contracts and the leases whether they're sale
14 contracts or the leases. And whatever he's got
15 identified there. I mean, if he's already
16 identified them, that should be easy. And I'm
17 sure that if whatever we provide is not
18 satisfactory, you'll hear from Mrs. Kane.

19 MS. KANE: Well, I --

20 JUDGE SIPPEL: Oh, yes. We'll be
21 back here. And I'm --

22 MS. KANE: We understand, Your

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1 Honor. We'd like not to have to be back here,
2 but we would also want any sort of side
3 agreements or any other associated documents
4 with those contracts, not just the actual
5 contract themselves. There might be additional
6 details in the side agreements that would be
7 helpful to this process.

8 JUDGE SIPPEL: You know, they've got
9 until November. Why don't you give them
10 something in writing?

11 MS. KANE: I'd be happy to do that,
12 Your Honor.

13 JUDGE SIPPEL: I don't care what you
14 want to call it, pleadings will be fine.
15 Whatever you want to call it. But whatever you
16 do, a demand for documents, pursuant to this
17 conference. And spell out exactly, you know,
18 you can give them all those definitions that
19 you want.

20 MS. KANE: And, Your Honor, we would
21 ask for clarification, once we obtain that
22 information, will we be entitled to seek

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1 additional discovery based on that information?

2 JUDGE SIPPEL: Well --

3 MS. KANE: For example, if they
4 identify some sort of relationship between an
5 innocent creditor and Mr. DePriest that causes
6 us concern for a Second Thursday analysis, will
7 we be entitled to seek interrogatories from
8 Maritime, or maybe a deposition of that
9 individual. How --

10 JUDGE SIPPEL: Well --

11 MS. KANE: How can we proceed going
12 forward?

13 JUDGE SIPPEL: We'll take that -- go
14 down that road when it comes. I'm not going to
15 rule it out at all. On the other hand, we
16 don't need to make that determination today
17 about depositions. I mean, depositions are --
18 I mean, absolutely. This case is all open for
19 everything and we're just approaching it in a
20 different fashion. We're not going to use the
21 regular traditional send-out of request for
22 documents and you get them. Obviously. We

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1 have to do it with a little bit more
2 painstaking, but that's okay.

3 I mean, this is work -- today it's
4 working. We'll see how it's working on the 4th
5 of November, and we'll take it from there.
6 After the 4th of November, we'll have a better
7 idea. Sure, there might be some depositions
8 that are --

9 MS. KANE: Should we simply serve
10 notices on the individual, or on Maritime, or
11 do we have to come back to Your Honor for
12 permission to do so?

13 JUDGE SIPPEL: Well, I'm going to
14 ask you to come to me for permission. Because
15 this is a little bit unusual. I mean, the fact
16 that there's a Second Thursday hovering around
17 this thing, and a bankruptcy proceeding, have
18 kind of thrown this into a little different
19 category than the routine.

20 So, yes, give me an application or
21 whatever it is, request, to serve a notice of
22 interrogatories with specific reasons for

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1 specific people.

2 MS. KANE: Okay, Your Honor.

3 JUDGE SIPPEL: But I wouldn't do
4 that until the after November 4th.

5 MS. KANE: No, we're just
6 speculating --

7 JUDGE SIPPEL: You can prepare them.

8 MS. KANE: -- that there will likely
9 be additional information that will be
10 necessary, once we get the basic information
11 concerning the contracts and the individuals.

12 JUDGE SIPPEL: What makes you say
13 that? Have you no faith? I mean, you know --

14 MS. KANE: Your Honor, I've been
15 waiting for discovery since July, so no, I
16 don't have as much faith, when it's with
17 Maritime.

18 JUDGE SIPPEL: All right.

19 MR. KELLER: Well, also, Your Honor
20 --

21 JUDGE SIPPEL: I don't want to keep
22 this transcript down, because everybody here

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